

provided in (d) of this section; and may purchase or condemn land as provided by chapter forty-two of the code of West Virginia for opening or widening streets, roads and alleys. Two-thirds of the cost of such grading, curbing, or macadamizing, or other permanent improvements, of any of the streets, roads, or alleys, as aforesaid, and two-thirds of the cost of purchasing or condemning land as aforesaid for street purposes, may be assessed to and required to be paid by the owners of the land, lots or fractional parts of the lots fronting or bounding on such street, road, or alley so improved, except as otherwise provided in paragraph (g) of this section.

(b) Payment is to be made by all land owners on either side of such portion of any avenue, street, road or alley so paved, opened, widened, or improved in such proportion of the total cost (less the portion, if any, chargeable to the street or other railway company) as the frontage in feet of his abutting land bears to the total frontage of all the land so abutting on said avenue, street, road or alley or portion thereof opened, widened, paved or improved as aforesaid; but the cost of such paving or improvement on said avenue, street, road or alley (not including opening or widening) shall not include any portion or amount paid for the paving or improvement of the intersection of avenues, streets, or roads or alleys, unless the work to be done, and the payment made therefor, as especially otherwise provided therein, as follows, to-wit:

(c) Upon petition in writing of the owners of not less than one-half in lineal feet of property abutting upon any avenue, street, road, or alley in said city, asking the city to grade, curb, pave or macadamize, or otherwise to permanently improve, such avenue, street, road or alley, and offering in said petition to have their property so abutting as aforesaid assessed not only with their part of the cost of such improvement abutting upon their property, as therein otherwise provided, but also offering to have their said property proportionately assessed with the total cost of the paving, grading and curbing, or macadamizing or other permanent improvement, of the intersections of the avenue, street, road or alley so paved or otherwise permanently improved, as petitioned for, the board of directors may order such work to be done, as herebefore provided in this section, and the total cost thereof, including cost of intersection, to be charged to and paid by the owners of the property abutting on such avenue, street, road or alley, and that the paving assessment or certificate made or issued to cover the cost of paving, grading and curbing or otherwise permanently improving such intersections shall be made a separate and one of the last assessments or certificates due against him and their property so assessed; and the city may assume the payment of such assessment or certificate covering the cost of such intersections, or may reimburse the property owners paying the same out of its general levies for streets, but there shall be no legal obligation on the city to do so.

(d) The city itself may do such work and charge and collect the cost thereof in the manner set out in section one hundred and thirteen herein. The decision of the city to do such work may be without notice or after the publication of the notice mentioned in this section, or after the rejection of all bids for the doing of the work.

(e) The cost of grading, curbing, and paving, or otherwise improving, the intersections, or parts of intersections, of avenues, streets, roads or alleys, on the plans adopted by the board of directors for such work, shall be paid by the city, except as otherwise provided in paragraph (c) of this section.

(f) And if any such avenues, streets, roads or alleys be occupied by street car tracks or other railroads, the cost of said improvements of the space between the rails and two additional feet outside of each rail shall be assessed to and borne and paid entirely by the person or company owning or operating such street car or other railway line, unless otherwise provided by the franchise of such street car or other railway company granted previous to the passage of this act.

(g) Provided, the board of directors, if they so elect, may order and cause any avenue, street, road or alley, public park or public place to be widened, graded or changed in grade and curbed and re-curbed, and paved or re-paved, with brick, concrete, asphalt or any other suitable materials, or macadamized, or otherwise permanently improved, including the construction of the retaining walls, sewers, drains, water pipes, water dam and water courses in connection therewith, and may purchase land, or condemn land as provided in this act, for any public avenue, street, road or alley, or part thereof, or park or other public purpose and the board may assess two-thirds of the entire cost of such improvement (or taking of land, or both) upon the abutting adjacent, contiguous or other lots or land especially benefited by such improvements.

The board of directors when they decide to order the improvements under this plan shall, by ordinance or resolution before doing the same, fix the total amount of the special benefits to be derived from such improvements to the abutting, adjacent, contiguous and other specially benefited land or not so assessed, setting out the names of the owners, the amount of the special benefits, and the approximate amount of the total cost of the proposed improvements; and the board may, in fixing such assessment take into consideration the assessed value of the lot or land as fixed, for the last assessment year, for state and county purposes.

(h) When the board of directors shall deem it expedient and proper to cause any avenue, street, road or alley, or any portion thereof, in such city to be graded, and paved, curbed or macadamized, or otherwise permanently improved, or land to be acquired or taken for street purposes, as provided in (a) of this section, or shall deem it expedient and proper to cause the construction of any public sewer in or under any such avenue, street, road or alley, or land or easement therein to be acquired or taken therefor, or elsewhere, as provided in section one hundred and seventeen of this act, they shall by ordinance or resolution, order the work done, stating the method of payment thereof; and, if it be let to contract, notice shall be in the following manner, to-wit:

(i) The notice for bids or proposals for doing such improvements, either for street improvements or the construction of sewers, shall be published for at least fifteen days in all the daily newspapers. Said notice shall state where and how the bids or proposals shall be made; and whether so stated in the notice or not, the city may reject any and all bids for such proposed work; before advertising for bids on the work, the city shall approve and adopt plans and specifications therefor, and the advertisement for bids, and the contract awarded thereon, shall refer to such plans and specifications. The fact that such contract shall be let for said work shall be prima facie proof that the notice mentioned above was given as required therein.

(j) The cost of said paving, macadamizing or other permanent improvement may be paid in one of two ways (to be specified by ordinance by the board of directors), either as set out in section one hundred and thirteen, or in section one hundred and fifteen of this act.

(k) If the abutting land on any such avenue, street, road or alley, sought to be improved, as aforesaid, or in which a sewer is ordered laid, is not laid off into lots by a map of record, the board of directors may, for the purpose of making the assessments provided for in this section and section one hundred and seventeen therein, lay off such lands into lots of such size as the board deems advisable for the purpose of laying a proper assessment against such land. (C. 10 Acts 1915.)

(108) Sec. 112-a. Said city of Fairmont is hereby authorized to issue its bonds for the purpose of providing for the cost of grading, paving and curbing, or macadamizing, or otherwise permanently improving the avenues, streets, roads and alleys of the said city; in anticipation of special assessment to be made upon the property abutting upon the avenues, streets, roads and alleys so improved. Said bonds may be in such an amount as shall be sufficient to pay the entire cost and expenses of said improvements for which said city is authorized to sell said bonds but not below the par value thereof. The amount for which said bonds are issued shall be made up of five bonds payable in two, four, six, eight and ten years respectively, from the date of their issue, and shall bear interest not to exceed six per cent. per annum, payable annually or semi-annually; and the assessments as provided for and required to be paid herein shall be applied to the liquidation of said bonds and interest thereon, and if, by reason of the penalties collected with the delinquent assessments, there be any balance after the payment of the bonds and all accrued interests and costs, it shall be turned into the city treasury to the credit of the interest and sinking fund of the city.

But the said city shall not become indebted in any manner or for any purpose to an amount including existing indebtedness, in the aggregate exceeding five per cent. of the value of all taxable property therein as provided in section 158-a of this act, and for that purpose in estimating "existing indebtedness" special assessment bonds representing the cost of paving or other permanent improvements of streets, roads or alleys, or the construction of sewers, or the acquiring or taking of land for such purposes and the cost of which is assessed against the abutting property on such avenues, streets, roads or alleys, or especially benefited property adjacent thereto, or on such owner, shall not be included; and likewise the amount in any sinking fund or the amount invested thereby, or as provided by law, for the payment of outstanding bonds, shall not be included in the estimate or existing indebtedness; provided, that the aggregate of its debts of every kind whatsoever, including such special street permanent improvement bonds, or sewer bonds shall not exceed five per cent. of the value of all taxable property therein. (C. 21 Acts 1915.)

(b) And it shall be the duty of the board of directors to immediately certify such assessments to the treasurer for collection, as herein provided; and for the purpose of facilitating the collection of such assessments against the properties herein the board of directors may issue assessment certificates, with interest coupons attached thereto, to be delivered to and charged against the city treasurer, who shall collect the same; and as such certificate and coupons are paid he shall deliver the canceled certificates to the party paying the same. A copy of said order shall be certified by the city clerk to the clerk of the county of Marion county, who is hereby required to index the same in the proper trust deed book in the name of each person against whose property assessments appear therein. (C. 10 Acts 1915.)

(c) The amounts so assessed against said abutting lots and owners thereof, respectively, shall be paid in ten payments, as follows, that it to say one-tenth of said amount, together with interest on the whole assessment for one year, shall be paid into the city treasury of the city before the first day of the following January; and a like one-tenth part, together with interest for one year upon the whole amount remaining unpaid before the first day of January in each succeeding year thereafter, until all shall have been paid. Each of said installments of one-tenth shall bear interest at six per centum per annum payable annually from the date of assessment. Provided, however, that the owner of any lot, so assessed for the cost of the paving of said avenue, street, road or alley, shall have the right at any time to anticipate and pay the whole of such unpaid assessment and interest thereon until the first day of the following January, and have the lien against the property so assessed released as hereinafter provided. (C. 10 Acts 1915.)

(d) If any such assessment shall not be paid when due, the board of directors shall cause to be enforced the payment of said assessment and interest in all respects as herein provided for the collection of taxes due the city; and said assessment shall be a lien upon the property liable therefor the same as for the taxes, which lien may be enforced in the same manner as provided for the sale of property for the payment of taxes and tax liens; and the liens therein provided for shall have priority over all other liens except those for taxes due the state and the county, and shall be on a parity with taxes and assessments for the city. (C. 10 Acts 1915.)

(e) When all of said assessments for grading, paving and curbing, or macadamizing, or other permanent improvements shall be paid in full to the treasurer, he shall deliver to the owner of said property, a release of the lien

thereof, which may be recorded in the office of the clerk of the county court as other releases of liens are recorded.

Under this plan for the payment of the cost of such permanent improvements of avenues, streets, roads and alleys, and the construction of sewers, the contractor (if the work is let to contract) shall look only to the city for the payment of the work, and in no sense to the abutting land owners. (C. 10 Acts 1915.)

(f) The board of directors may contract for such paving (including grading and curbing), or other said improvements to be done as aforesaid, and may acquire or take land for street purposes, as aforesaid, and may, if the board so elect, stipulate that two-thirds of the cost thereof, shall be paid in installments by the abutting property owners, as provided in paragraph (a) of section one hundred and twelve, or specially benefited property owners, as provided in paragraph (g) of said section, in five equal installments, to be evidenced by five paving certificates issued therefor, payable in thirty days, and one, two, three and four years, respectively, after the date of their issue; and shall bear interest not to exceed six per centum per annum payable annually, which certificate, to be signed by the mayor and the clerk, or other person or persons designated of record by the board, may be sold, either to the contractor doing the paving or other said improvements, or to any other person, and which shall cover two-thirds of such work, or the cost of acquiring or taking land for street purposes, including the cost of surveys, notices and other things pertaining thereto; provided, the city in negotiating and selling such certificates, shall not be held as guarantor, or in any way liable for payment thereof, except upon the direct action of the board of directors as expressed by resolution of record before such sale. And the certificates covering the amount of the assessment shall be paid by the owner of the land, lot or fractional part thereof, so assessed for the cost of said improvement on such avenue, street, road or alley so paved or improved, of land acquired or taken, as aforesaid. The amount specified in said assessment certificate shall be a lien as aforesaid in the hands of the holder thereof upon the lands, lot or part of lot so assessed, and shall also be a debt against the owner of such real estate, and said amount shall draw interest from the date of said certificates, payable annually; and the payment of the debt may be enforced as provided by law for the collection of other debts, or such lien may be enforced as provided in this act in the name of the holder of such certificates.

After a contract has been made by the board to pave or otherwise permanently improve any public road, avenue, street or alley in said city, under this act, and the paving or other permanent improvement, or any stipulated part thereof, has been completed, or the cost of acquiring or taking land, as aforesaid, has been ascertained, the board shall assess the amount each lot shall bear, and shall make a written report, stating the number of lots and the blocks or tracts of land when not laid off into lots, and the names of the owners of such lots or land when known, and the amount assessed thereon; and when the said board approves said report, or modifies it and then approves it, a copy of said report, so adopted by the board, when certified to the city clerk of said city, may be recorded in the clerk's office of the county court of Marion county in a trust deed book, and shall be a continuing tax lien upon the lot or land against which the assessment is made until the certificates as aforesaid are paid, except as otherwise provided in section one hundred and eighteen of this act, and the clerk shall index the same in the name of each land owner mentioned therein. (C. 10 Acts 1915.)

(109) Sec. 113. Payment is to be made by all land owners on either side of such portion of any avenue, street, road or alley so paved or improved in such portion of the total cost (less the portion, if any, chargeable to the street or other railway company) as the frontage in feet of his abutting land bears to the total frontage of all the land so abutting on said avenue, street, road or alley or portion thereof paved or improved as aforesaid; but the cost of such paving or improvement on said avenue, street, road or alley shall not include any portion or amount paid for the paving or improvement of intersections of avenues, streets or alleys.

When the paving or improvement of any such avenue, street, road or alley, or portion thereof, shall have been completed, under the contract awarded therefor, the board of directors shall cause the several frontages abutting thereon to be measured, and to cause the assessment upon each owner of land abutting thereon to be calculated, showing the proper amount to be determined as provided in the foregoing plan; and the said board of directors shall enter the same, together with the description of the lots of land, as to location, frontage and ownership upon its records, and direct on its records that such owners and lots be assessed and chargeable with the amounts so ascertained to be borne by them, respectively; and, when so approved and entered of record, the same shall be and constitute an assessment against said owners and lots for such respective amounts. (C. 10 Acts 1915.)

(110) Sec. 114. The board of directors may, if they so elect, cause the costs of any such grading, paving, curbing or macadamizing or other permanent improvements, to be paid in the following manner, to-wit:

Wherever the board of directors shall contract for such paving or other permanent improvement to be done, and that it shall be paid in installments by the property owners, fronting on such streets, avenues or alleys as aforesaid, the board may cause the mayor and city clerk to issue to the contractor doing the paving, or other said improvement, a certificate for each installment of the amount of assessment to be paid by the owner of the lot, or fractional part thereof, fronting on such street, avenue, road or alley; and the amount specified in said assessment certificate shall be a lien as aforesaid in the hands of the holder thereof, upon the lot or part of the lot fronting on the street, avenue, road or alley so improved, and said amount shall draw interest from the date of said assessment, and the payment may be enforced as set out in this act, in the name of the holder of such certificate. And after contract has been made by the board to pave or otherwise permanently improve any public highway, street or alley in said city, under this act, and paving or other permanent improvements, or any stipulated part thereof, has been completed, the said board shall assess the amount each lot shall pay for the improvement so made, and shall make a written report, stating the number of lots and the blocks and the names of the owners of such lots, when known, and the amount assessed thereon; and when the said board approves said report, or modifies it and then approves it, a copy of said report, so adopted by the board, when certified to by the city clerk of said city, may be recorded in the clerk's office of the county clerk of Marion county, in the trust deed book, and shall be a continuing tax lien upon the lot against which the assessment is made, until the certificates as aforesaid are paid, and the clerk shall index the same in the name of each lot owner mentioned therein; and the presentation by the lot owner of all certificates issued as aforesaid against the lot owner, the clerk of said court shall make upon the margin of the book in which said certified report is recorded, that the lien is released to the lot mentioned in the certificate produced.

The board of directors may order any such avenue, street, road or alley, between the curbs and between designated points to be graded, or graded and paved, or otherwise permanently improved in the manner authorized and provided in section one hundred and twelve thereof, and may order proper curbs of stone, cement or other suitable material to be set on both sides of the avenue, street or alley so paved or improved, and two-thirds of the cost of grading, paving and setting curbs may be assessed to the owners of the lots or fractional parts of the lots fronting or bounding on such avenue, street, or alley between such designated points in proportion to the distance so fronting or bounding owned by each, except the cost of intersections, which shall be borne and paid by the city. The cost of such grading, paving and setting of curbs to be borne by the abutting owners as herein provided, shall be paid in installments as provided in section one hundred and thirteen hereof, and shall become liens and be enforceable as provided by section one hundred and thirteen hereof; and the work hereby authorized to be done by the board of directors, and the assessments therefor, hereby authorized to be made, shall be subject to sections one hundred and twelve and one hundred and thirteen hereof, and the board shall proceed in relation thereto in accordance with said sections one hundred and twelve and one hundred and thirteen. (C. 10 Acts 1915.)

(111) Sec. 115. Upon the petition in writing of the owners of not less than one-half in lineal feet of property abutting upon any avenue, street or alley in said city asking the board of directors to grade, curb, pave or macadamize or otherwise permanently improve such avenue, street or alley, and offering in said petition to have their property so abutting as aforesaid assessed not only with their part of the cost of such improvements abutting upon their property as provided for in section one hundred and fifteen of this act, but also offering to have their said property proportionately assessed with the total cost of the paving, grading curbing or macadamizing or other permanent improvements of the intersection of the avenue, street or alley so paved or otherwise permanently improved as petitioned for the board of affairs may order such avenue, street or alley to be paved or otherwise permanently improved as provided in section one hundred and fifteen herein, and the paving certificates issued to cover such intersection shall be made separate, and the last certificate due against them and their property so agreed to be assessed; and the city may pay such last mentioned certificates or may reimburse the property owners paying the same out of its general levy for streets and wharves, but there shall be no legal obligations on said city to do so. (C. 10 Acts 1915.)

(112) Sec. 115-a. Upon the petition in writing of the owners of not less than one-half in lineal feet of property abutting on any avenue, street or alley, or portion thereof, in said city asking the board of directors to grade, curb, pave, or macadamize or otherwise permanently improve such avenue, street or alley, or portion thereof, and offering in said petition to have their said property proportionately assessed with the entire cost of the paving, grading, curbing or macadamizing or other permanent improvement of such avenue, street, or alley, or portion thereof, so paved or otherwise permanently improved as petitioned for, the board of directors may order such avenue, street or alley, or portion thereof, to be paved, or otherwise permanently improved as petitioned for, and assess the entire cost thereof to and require the same to be paid by the owners of the land, lots or fractional parts of the lots fronting or abutting on such avenue, street, or alley, or portion thereof, as approved; and the board of directors in doing the work so petitioned for shall be governed by the provision of sections one hundred and eleven, one hundred and twelve, one hundred and thirteen and one hundred and fourteen hereof relating to paving or otherwise permanently improving avenues, streets or alleys, assessing the cost thereof to the abutting property owners, and providing for and enforcing payment for the same, except that the entire cost of the said work may be assessed to and required to be paid by the owners of the land, lots or fractional parts of the lots fronting or abutting on such avenue, street or alley so improved, instead of two-thirds of such cost, as in said sections provided. (C. 21 Acts 1919.)

Sewer Construction.

(113) Sec. 116. The board of directors of said city are authorized and empowered to order and cause to be constructed in said city, or part within and part outside the limits of said city, any public sewer, either main or lateral, or both, by contract, or direct by the city, for the benefit of said city or any part thereof, and to purchase land or easement therein or to condemn land or easement therein, in the manner provided in this act, for such sewer; and when the board shall order the construction of any such sewer or any part thereof in said city, the owners of the property abutting thereon, or abutting upon an avenue, street, road or alley in which such sewer shall be constructed, or abutting on any land, or easement therein specially procured for the purpose of the construction of a sewer therein, may be charged with two-thirds of the cost thereof, including the cost of such sewer at and across intersections at avenues, streets, roads and alleys adjacent thereto. If said work is let to contract, the provision of (f) of section one hundred and twelve shall apply,

When said sewer is completed in any block, or between two designated points, the board of directors shall cause a report to be made in writing, setting out the total cost of such sewer and a description of the lots or land as to location, frontage and ownership liable therefor, including the cost of acquiring or taking land or easement therein for such purposes and cost of surveys, notices, etc., therefor, together with the amount chargeable against each lot or piece of land and the owner thereof. If any lot fronts on two streets, or on a street and a road, or on a street (or road) and alley, in which a sewer is constructed, it may be assessed on both said streets, or street and road, or street and alley. Said board shall enter an order upon its record setting forth the location and owner of each lot or piece of land, and the amount of said sewer assessments thereagainst, calculated in the same way as provided for street paving in (g) of section one hundred and twelve herein. The entry of such order shall constitute and be an assessment for such proportionate amount so fixed therein against said respective lots and land and the owners thereof; and said board shall thereupon certify the same to the treasurer for collection; and for the purpose of facilitating the collection of such assessments against the properties herein, the board of directors may issue assessment certificates, with interest coupon attached thereto to be delivered to and charged against the city treasurer who shall collect the same, and as such certificate and coupons are paid he shall deliver the cancelled certificates to the party paying the same; and the city clerk shall file a certified copy of said order with the clerk of the county court of Marion county, who shall record same in the proper trust deed books and index the same in the name of each owner of any lot or land thus charged with said sewer assessments, and the assessments so made shall constitute and be a lien upon said lots or land, respectively, which shall have priority over all other liens, except those for taxes due the state and county, and shall be on a parity with other taxes and assessments due the city.

The amounts so assessed against said abutting lots or land, and which shall be a lien thereagainst, shall be collected in the manner provided in this act for the collection of paving liens. Said assessment shall be divided into three installments, each for one-third of the amount thereof, and the first due and payable in thirty days, the second one year, and the third in two years, from the time of certifying the same to the treasurer, except as hereinafter provided in this section, all bearing interest at six per centum per annum from such date, payable annually; and the board of directors may issue sewer certificates thereon, as of said date, as further evidence of said indebtedness and lien therefor, and said certificates may be sold or negotiated, at not less than par, and without any kind of discount, to the contractors doing such work, or other person if the board deem it expedient; provided, the city in negotiating and selling such certificates shall not be held as guarantor or in any way liable for payment thereof, except upon the direct action of the board of directors as expressed by resolution of record before such sale. But the owner of the land or lot so assessed may at any time anticipate and pay such assessment or certificate with interest thereon on the whole unpaid amount till the time when the next certificate due shall become due. If such assessment shall not exceed fifteen dollars, it shall be in one amount due and payable thirty days from date; if more than fifteen dollars, and less than thirty dollars, then in two installments of equal payments, due and payable in thirty days and one year, respectively, from date; and if more than thirty dollars, then in three equal installments, and payable as first aforesaid; provided, the board of directors may, if they so elect, order and cause the construction of any such sewer, and may acquire or take land or easement therein, either in or outside said city or both, for said sewer purposes, and assess two-thirds of the cost thereof upon and against the abutting, adjacent, contiguous and other lots or land especially benefited by the construction of such sewer, and said assessment shall be a lien upon such lots or lands, and a debt against the owners thereof for the amount so charged against them respectively, which debt may be collected as provided by law for the collection of other debts of like kind, and which lien may be enforced in the same manner as provided for the enforcement of paving liens in this act.

The board of directors when they decide to order the construction of the sewer under this plan, shall, before doing the same, fix, by ordinance or resolution, the total amount of the special benefits to be derived from such improvements to the abutting, adjacent, contiguous, and other specially benefited land or lots so assessed, setting out the names of the owners, the amount of the special benefits, and the approximate amount of the total cost of the proposed sewer, and the board may, in fixing such assessment, take into consideration the assessed value of the lots or land as fixed, for the last assessment year, for state and county purposes. (C. 10 Acts 1915.)

(114) Sec. 117. In addition to the provision for the release of said assessment liens, either for street paving or other permanent street improvements, or construction of sewers, as elsewhere set out in this act, on the presentation by the land or lot owner of any of the certificates issued as aforesaid against him or his predecessor in title to such lot, the clerk of the county court shall mark upon the margin of the trust deed book at which said certified report is recorded, that the lien is released to the land or lot mentioned in such certificate to the extent of the amount of the certificates thus exhibited; and the county clerk shall thereupon write across the face of each of said certificates the date of their production to him for the release of lien and shall sign his name thereto in his official capacity, for which he shall receive in advance a fee of twenty-five cents for each certificate so marked from the person demanding the release of the lien aforesaid; but if more than one of the serial certificates against the land or lot or lots shall be produced at the same time, the fee of the county clerk shall not exceed twenty-five cents for the release of the liens as to all of the certificates thus produced and relating to the same real estate.

Provided, that the owner of any lot or land against which any paving or sewer certificate is an unrelaxed lien or record shall make and produce to the county clerk, or some person for such owner shall make and produce an affidavit, setting out therein that such certificate (or certificates) has been paid in full, and after diligent search, cannot be found, said county clerk shall, upon the payment of a fee of twenty cents file and preserve said affidavit as a public document, and shall forthwith note the release of said lien to the extent of said lost certificate (or certificates) and the lots or land against which it is a lien upon the margin of the trust deed book as aforesaid, and noting therewith the filing of said affidavit, which shall operate as a release of such lien to the extent of such marginal notation. If the affidavit so filed be false, the person making oath and subscribing thereto shall be guilty of a felony, and upon conviction thereof shall be fined not to exceed five hundred dollars, or sentenced to be confined in the penitentiary for a term of not more than one year, or both, in the discretion of the court passing sentence.

Provided, further, that any paving or sewer lien, which may be created in consequence of the provisions of this act, or any lien which may have been created in consequence of an act of which this is an amendment for an assessment, the last payment of which is not yet due, shall not, under any circumstances, be a lien against the lot or land or fractional part of the lot or land, against which it may have been assessed and made a lien for a period longer than one year after the last assessment or certificate of the same date and group, representing such lien, shall have become due and payable, unless some suit or action, at the termination of said one year period, shall be pending for the enforcement of such lien, or unless the amount of the lien or some part thereof is in some way involved in a suit or action pending at the end of said one year period, and, further that no such paving or sewer lien heretofore placed to record against the county clerk's office for an assessment, the last payment of which is past due, shall remain or be a lien against the real estate therein described for a longer period than one year from the time this act takes effect, unless a suit shall be pending at the end of each one year period for the enforcement of said lien, or the amount thereof shall in some way be involved in some action then pending.

All of the assessment certificates, which may be issued under the provisions of the act, shall be made payable at the office of the treasurer, who shall receive payments thereon when due, if tendered to him, and interest thereon from the date of such payments shall cease. The treasurer shall keep a separate and special account of all said sums of money received by him, and he shall hold said money in trust for the person who thereafter delivers to the treasurer for cancellation any and all certificates on which said treasurer has received full payment as aforesaid; but the owner of said certificates shall not be entitled to interest on said sum after the date of payment thereof to the treasurer. When the whole amount of any such assessment lien shall have been paid to the treasurer as aforesaid, or the treasurer shall be convinced that all of the paving or sewer certificates against any lot, lot or fractional part of lot, shall have been paid in full, he shall, when demanded, execute a release of said lien in the manner hereinbefore provided for the release of paving liens. If the city shall have no person for treasurer, the clerk, unless some other person is designated by ordinance, which board of directors is hereby authorized to enact, shall perform the duties here required to be performed by the treasurer. (C. 10 Acts 1915.)

(115) Sec. 118. It shall be lawful for the city of Fairmont to issue and sell its bonds, as provided in this act for the sale of other paving and sewer bonds, to pay the city's part of the cost of the construction of said sewers and the paving or other permanent improvements of said streets and alleys, as required by law; and said city may levy taxes, in addition to all other taxes authorized by law, to pay such bonds and interest thereon; provided, that the total indebtedness of the city for all purposes shall not exceed five per centum of the total value of all taxable property therein, notwithstanding anything herein, or statute or act of the legislature to the contrary.

It is especially provided that no bonds shall be issued under the provisions of this act, unless and until the questions of issuing said bonds shall have first been submitted to a vote of the people of said city, and shall have received three-fifths of all votes cast at said election for and against the same. But all bonds shall be issued and elections authorizing the same shall be held, pursuant to section one hundred and fifty-eight-b of this act. (C. 21 Acts 1919.)

(116) Sec. 120. The cost of any improvement contemplated in this act, and for which assessments may be made, shall include the cost and expenses of making the assessments, the expenses of the preliminary and other surveys, and of printing and publishing all notices required to be published, and serving the notices on property owners, and the cost of construction.

Proceedings with respect to improvements shall be liberally construed by the board of directors and the courts, to secure a speedy completion of the work at a reasonable cost, and the speedy collection of the assessments after the time has elapsed for their payments, and merely immaterial objections in such cases shall be disregarded. (C. 10 Acts 1915.)

(117) Sec. 121. In setting forth the lots and lands abutting upon the improvements, it shall be sufficient to describe them as the lots and lands

abounding and abutting upon said improvement between and including the termini of said improvement, or by the description by which they are described on the plan book of the county in which said lots are situate; and this rule of description shall apply in all proceedings in which lots or lands are to be charged with special assessments. (C. 10 Acts 1915.)

(118) Sec. 122. When work shall have been completed on any avenue, street, road or alley, or part thereof, as provided in section one hundred and fifty-two or section one hundred and twelve, or the construction of any sewer or other work shall have been completed on any avenue, street, road or alley, and assessment thereagainst shall have been calculated as provided in this act, the board of directors shall give notice, by publication at least once a week for two successive weeks in all the daily newspapers of general circulation published in said city, that an assessment under this act is about to be made against the property so assessed and the owners thereof, mentioning